

Fiscal Note

Fiscal Services Division



HF 534 – Identity Theft (LSB 1820HV)

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Fiscal Note Version – New

Requested by Representative Mary Wolfe

Description

House File 534 eliminates the aggravated misdemeanor penalty for the crime of identity theft, so the only penalty for identity theft is a Class “D” felony. This Bill specifically exempts certain age groups and offenses from committing the crime of identity theft.

Background

Correctional and Fiscal Information

- Current law provides for a graduated system of penalties, ranging from an aggravated misdemeanor to a Class “D” felony, based on a \$1,000 threshold. If the value of the items is \$1,000 or less, the penalty is an aggravated misdemeanor. The penalty is a Class “D” felony for items in excess of \$1,000.
- The table below shows the FY 2012 Iowa district court disposition data for identity theft. There were 390 disposed charges, with 212 (54.4%) dismissed or acquitted, and 153 (39.2%) were convicted. Of the 153 convictions, 93 (60.8%) were convicted as charged. Sixty charges resulted in a conviction of an offense other than identity theft.

FY 2012 Data for Disposed Charges of Identity Theft

Offense Level	Disposed	Dismissed/	Convicted	Convicted
	Charges	Acquitted		as Charged
Identity Theft	9	4	5	2
Identity Theft Agg. Misd.	225	139	74	59
Identity Theft "D" Felony	156	69	74	32
Total	390	212	153	93

- This Bill eliminates the sentencing option of an aggravated misdemeanor penalty.
- The impact to the Judicial Branch operating budget is the case cost difference between an aggravated misdemeanor (\$209) and a Class “D” felony (\$427).
- According to the Justice Data Warehouse, the Criminal and Juvenile Justice Planning Division, and the Department of Corrections, the following are estimates for sentencing, length of stay by offense class, and costs for identity theft:

Criminal Justice System Information

Conviction Offense Class	Percent Sentenced to State Prison	Avg Length of Stay in Prison	Marginal Cost Per Day	Percent Sentenced to Probation	Avg Length of Stay on Probation	Avg Length of Stay on Parole	Average Cost per Day for Prob/Parole	Percent Sentenced to County Jail	Avg Length of Stay in County Jail	Marginal Cost Per Day*
Aggravated Misdemeanor	3.6%	8.0 months	\$17.60	70.0%	20.4 months	5.5 months	\$3.66	3.6%	58	\$15.00
Class "D" Felony	19.2%	13.8 months	\$17.60	80.8%	33.9 months	12.5 months	\$3.66	0.0%	0	\$15.00

*Marginal costs for county jails cannot be determined due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15.00 per day.

For aggravated misdemeanor convictions, approximately 22.8% of offenders convicted of identity theft are not supervised in the corrections system. They usually receive a financial penalty, community service, or some combination thereof. Offenders sentenced to county jail may or may not receive a probation sentence that is supervised by Community-Based Corrections (CBC) staff.

Minority Data Information

The table below shows the FY 2012 offender-based convictions for aggravated misdemeanor identity theft, where races/ethnicity is known. Minority offenders are disproportionately convicted compared to their percentage of the Iowa population.

FY 2012 Convictions by Race for Aggravated Misdemeanor Identity Theft

Conviction Offense Class	Percent White	Percent Black	Percent Hispanic	Percent Native American	Percent Asian
Identity Theft Agg. Misd.	62.7%	13.4%	22.4%	0.0%	1.5%

Refer to the [Minority Impact Memo](#), dated February 11, 2013, for information related to minorities in the criminal justice system.

Assumptions

Correctional and Fiscal Information

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice policies and practices will not change over the projection period.
- The law will become effective July 1, 2013. A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- There will be decreases in county jail sentences for aggravated misdemeanor convictions.
- Current convictions for aggravated misdemeanors will become Class “D” felony convictions under the Bill.
- The impact of exempting juveniles from the offense of identity theft cannot be estimated but is expected to be minimal.
- These will be bench trials.
- The impact on the indigent defense budget is expected to be minimal. The fee cap for an aggravated misdemeanor is the same as a Class “D” felony — \$1,200.

Minority Data Information: The impact on minorities will remain consistent with current data.

Summary of Impacts

Correctional Impact

There will be and estimated 73 offenders annually convicted of a Class “D” felony under this Bill’s provisions that would have been convicted of an aggravated misdemeanor under current law. Net admissions to the corrections system is indicated in the following table:

Net Admissions to the Correctional System

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
County Jail	-10	-20	-20	-20	-20
State Prison	5	11	11	11	11
Probation/Parole	5	11	19	19	19
Total	<u>0</u>	<u>2</u>	<u>10</u>	<u>10</u>	<u>10</u>

The prison population is expected to increase by five offenders in FY 2014 and 13 offenders annually thereafter. The projected increase in the prison population exceeds admissions because Class "D" felons' average length of stay exceeds one year. The probation and parole population is expected to trend upward over the five-year projection period because the length of stay under supervision exceeds one year for Class "D" felons.

There will be fewer offenders sentenced to county jail under this Bill. Offenders currently convicted of an aggravated misdemeanor and sentenced to county jail will now be convicted of a Class "D" felony and sentenced to State prison or probation.

Minority Impact

It is expected this Bill will have a disproportionate impact on minorities because approximately 37.3% of offenders convicted under the Bill's provisions may be minorities, specifically Blacks and Hispanics. This Bill shifts aggravated misdemeanor convictions to Class "D" felony convictions. Enhanced penalties will result in an increased number of minority offenders supervised in the correctional system, and they will be supervised for a longer period than under current law.

Fiscal Impact

The fiscal impact is estimated to be a net cost increase of \$18,500 in FY 2014 and \$103,400 in FY 2015. The table below shows the fiscal impact by funding source. County jail costs are expected to decrease by \$8,700 in FY 2014 and decrease by \$17,400 annually thereafter.

State General Fund costs are estimated to increase by \$27,200 in FY 2014 and \$120,800 in FY 2015. The State prison costs are estimated to level off in FY 2015 at \$83,500 annually. Costs for CBC supervision are anticipated to increase over the five-year projection period because the length of stay in CBC exceeds one year. Judicial Branch costs are expected to level off at \$15,900 annually in FY 2015.

	<u>FY 2014</u>			<u>FY 2015</u>		
	<u>County Budgets</u>	<u>General Fund</u>	<u>Total</u>	<u>County Budgets</u>	<u>General Fund</u>	<u>Total</u>
County Jail	\$ (8,700)	\$ 0	\$ (8,700)	\$ (17,400)	\$ 0	\$ (17,400)
State Prison	0	15,800	15,800	0	83,500	\$ 83,500
CBC	0	3,300	3,300	0	21,400	21,400
Judicial Branch	0	8,100	8,100		15,900	15,900
Total	<u>\$ (8,700)</u>	<u>\$ 27,200</u>	<u>\$ 18,500</u>	<u>\$ (17,400)</u>	<u>\$ 120,800</u>	<u>\$ 103,400</u>

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division

Department of Corrections

Office of the State Public Defender

State Court Administrator's Office

Department of Human Services

/s/ Holly M. Lyons

March 21, 2013

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
